

AZPOST
INTEGRITY BULLETIN
Volume No. 2

The Arizona Peace Officer Standards and Training Board (AZPOST) has the legislative mandate to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. This charge, to protect the public by overseeing the integrity of Arizona's law enforcement officers, is met by reviewing cases and taking action against the certification of individuals who violate the AZPOST Rules. The following is a summary of the actions taken by the Arizona Peace Officer Standards and Training Board at its **January 26, 2000** public meeting. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Bulletin is being published to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have. The "*Editor Notes*" are historical observations and insights for training and discussion purposes only.

CASE NO. 1

MALFEASANCE

Officer Green, while off-duty, accompanied an on-duty officer on a trip to pick up evidence from another city. On the way back to their jurisdiction, they stopped at a casino and gambled, leaving the evidence unattended. They then purchased alcohol and consumed it in an unmarked department vehicle while returning to their jurisdiction. The Board suspended Officer Green's certification for six months for malfeasance and conduct that might diminish public trust in the profession.

CASE NO. 2

CHEATING/LYING

Cadet Blue was observed by a fellow cadet copying answers during an academy examination. The fellow cadet reported the incident and Cadet Blue was questioned. He denied the allegation and was given a polygraph examination. During the pre-test questioning, Cadet Blue again denied cheating on the academy test. The polygraph examination was administered and found him to be deceptive. Cadet Blue was advised of the polygraph results and was again questioned, whereupon, he admitted that he had copied an answer from another Cadet's paper. When Cadet Blue appeared before the Board, he told them he did not cheat, but was coerced into the confession by the polygraph examiner and the class administrator. The Board denied him certification, for malfeasance and the dishonesty of cheating and lying.

Editor's Note: A "Denial" is a permanent bar to peace officer certification in Arizona.

CASE NO. 3**ASSAULT**

Officer Brown assaulted his wife and her brother. When police responded, he held them at bay with the use of his police canine. In lieu of disciplinary action, the Board accepted his voluntary, permanent, relinquishment of certification.

CASE NO. 4**PROVIDING ALCOHOL TO MINORS**

Officer Gray provided alcohol to his 14 year old daughter and one of her 14 year old girlfriends. Officer Gray came home shortly after midnight and found the girls watching television. The officer got himself a beer and sat down at the computer to check his e-mail. His daughter asked him if the girls could have a beer. Although he initially refused, he eventually consented. From a 12-pack of beer, Officer Gray drank three or four and the girls split the remaining eight or nine. The girls also each had a wine cooler. Officer Gray admitted conducting an HGN evaluation of the girls, and stated they both attained a blood alcohol level of over .10%. The Board revoked Officer Gray's certification for malfeasance and conduct that would diminish public trust in the profession.

CASE NO. 5**SEX ON DUTY**

Officer Gold took one of the dispatchers on a ride along. During the ride along, the two began to flirt with each other by teasing verbally with sexual innuendo and banter. At one point, while the two were pulled over at a discrete location, Officer Gold allowed the woman to expose and briefly fondle his penis. No calls were missed or delayed as a result of this misconduct. Officer Gold was scrupulously honest when questioned about his misconduct. The Board suspended Officer Gold's certification for a period of six months for misfeasance and malfeasance.

Editor's Note: In front of the Board, an officer's complete honesty has historically been an important mitigating factor in situations involving consensual, non-criminal, sex on duty cases.

CASE NO. 6**ASSAULT**

Officer Red committed an act of domestic violence/assault by grabbing his wife and holding her down against her will. Officer Red and his wife had been in a bar and were asked to leave the bar because he was intoxicated and they were arguing. Once outside, the wife told her husband that she was leaving him. When she tried to leave the area, her husband grabbed her and held her down on the ground. He pushed her head into the pavement and at one point tried to choke her. The Board revoked Officer Red's certification for committing a crime involving physical violence.

CASE NO. 7**LYING**

Officer Silver, while on-duty and in uniform, made sexually suggestive comments to a female convenience store employee. According to the Internal Affairs report, Officer Silver drove his patrol vehicle to the convenience store, parked outside the store and used his vehicle spot-light to illuminate a female who was employed inside. He motioned for her to come out to his vehicle and upon complying, he commented on her gaining weight. According to the female, she responded

explaining that she was pregnant. He asked her if she was aware of what caused pregnancy and asked her if she would like to examine his vasectomy scars. Sometime after that conversation, Officer Silver entered the store and began reading a magazine. When asked what he was reading, he responded by making some sort of a rude comment. The female hit him on the shoulder with a “Slim-Jim” jerky stick. Officer Silver then told her that he was going to remove his sausage and strike her with it. She walked away and he said that she must want him to (hit her with his sausage) since she didn’t say no. The store clerk filed a complaint against Officer Silver and took a polygraph examination which determined she was truthful in her account. Officer Silver was interviewed concerning the allegations where he admitted to some of the allegations, up to his asking the female if she wanted to examine his vasectomy scars. However, he denied entering the store, or making the other comments. Officer Silver was scheduled for a polygraph examination, however, during the polygraph pre-test, he admitted to making the comments as alleged. The Board revoked Officer Silver’s certification for committing a crime involving dishonesty and for malfeasance.

Editor’s note: The Board has never brought a case against an officer’s certification for being impolite or boorish. If Officer Silver had not lied about his conduct, this matter would not have come to the Board. The Board views the AZPOST Rule of “The commission of an offense involving dishonesty...” to include A.R.S. 13-2907.01, when someone lies to Internal Affairs investigators.

CASE NO. 8

ASSAULT/THEFT

Officer Copper was convicted of assault and disorderly conduct after striking his wife and pulling her hair. He addressed the Board and explained that he had been in an abusive relationship with his wife, and she had assaulted him repeatedly. Officer Copper stated he just could not let her abuse him one more time, so he defended himself this time and ended up being arrested for it. After the police responded to the domestic violence call, they found departmental property in his home which should not have been there. Officer Copper denied any intent to steal the items. The Board received the Findings of Fact and Conclusions of Law from an independent Administrative Law Judge. The Judge found Officer Copper did commit assault and did commit theft. The Board revoked Officer Copper’s certification for the commission of crimes involving dishonesty and physical violence, and for malfeasance in office.

Editor’s note: Unlike many licensing boards, AZPOST provides full due process before deciding whether to suspend or revoke an officer’s certification. If a Complaint is issued, the officer may request a hearing, which takes place before an independent Administrative Law Judge. The Judge determines the facts and decides whether the facts violate a POST rule by written Findings of Fact and Conclusions of Law. The Board then reviews these findings and decides whether to impose a sanction. Officers are also given an opportunity to present mitigation to the board before a decision is rendered.

CASE NO. 9

THEFT

Officer Black, off-duty in civilian clothes, attempted to shoplift \$27.00 worth of items from a grocery store. He was cited, but the criminal case was dismissed because he paid restitution and had never done anything like this before. Immediately after the incident, Officer Black sought counseling. He had been going through an extremely stressful time in his life, having never dealt with the traumas of his past military service. He had also recently separated from his wife and was turned down for a job assignment he desperately wanted. Officer Black provided the Board with letters of support from a retired judge, a psychiatric nurse practitioner, and two prosecutors. The letters assured that Officer Black was a very good man and a good officer, who would never steal again because he is learning to deal effectively with the stresses in his life. The Board was sympathetic, but still revoked Officer Black's certification for the commission of a crime involving dishonesty.

Editor's Note: Unusual stress is known to lead peace officers to do things that are completely out of character. If an agency or supervisor can spot the stress before it gets out of hand, and help the individual deal with it earlier, many of these careers could be saved.

FREQUENTLY ASKED QUESTIONS CONCERNING AZPOST

“How do cases come to the attention of the Board?”

AZPOST, by statute, must be informed of any misconduct in violation of its rules whenever a peace officer leaves the employment of an agency. This includes terminations, resignations, and retirements, which might be related to an investigation. In addition, AZPOST staff is advised by agencies, other officers, media reports, and other sources, on matters which might be of interest. AZPOST relies heavily on the expertise and efforts of the Internal Affairs Units and Personnel Sections of the agency involved, to notify us of situations which might concern us.

“Is AZPOST going to look into past disciplinary actions of agencies and individuals?”

While the Board has a responsibility to assess all matters brought to its attention, there are no plans to actively review, in a retroactive manner, past actions of agencies.

“Are these all the cases and does everyone get revoked?”

For a variety of reasons, the Bulletin will only summarize some of the cases which were brought before the Board and will indicate what action the Board took in each matter. The first Bulletin just happened to be only cases which resulted in revocation.

The Board does consider minor misconduct and imposes smaller sanctions. While a lot of minor misconduct or agency policy violations come to AZPOST, most of these will not make it to the Integrity Bulletin because they are handled without discipline before the matter even becomes a case. Frequently, it is enough that the officer lost a job and it is not necessary to review his certification. This is particularly true when the misconduct does not evidence

an integrity problem. Additionally, many that do become cases are “settled” by consent agreement not involving revocation. An example might be, if misconduct can be corrected by remedial training, the officer and POST could agree by contract that the officer will get the needed training before reactivating certification.

“Isn’t the Board’s action almost “double jeopardy” because the agency has already taken action against an officer, and besides what if an agency still wants to keep the officer?”

The Board’s action concerns the “certification” of the person to function as a peace officer in the state. It is totally separate from any other actions including Civil Service Commissions or Merit Councils. While the Board sometimes takes into account the actions and wishes of the agency, there may be times that the Board feels that the person should not be certified to function as a peace officer, irrespective of those wishes. The Board has a state-wide, system-wide charge to insure professionalism and must view each situation from that orientation.